



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

COPY MAILED

JAN 05 2007

OFFICE OF PETITIONS

In re Application of :
Glenn Leedy : DECISION ON PETITION
Application No. 10/672,961 :
Filed: September 26, 2003 :
Atty Docket No. ELM-2 CONT. 4 :

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON EVIDENCE THAT A REPLY WAS TIMELY MAILED OR FILED filed October 27, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed March 28, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective June 29, 2006. A courtesy Notice of Abandonment was mailed on October 10, 2006.

Petitioner maintains that on September 26, 2006, applicant mailed, using the Certificate of Mailing procedure of 37 C.F.R. § 1.10, a Request for Continued Examination, a Petition Under 37 C.F.R. § 1.136(a) for Extension of Time (including permission to charge the fee to a Deposit Account), a Reply to Office Action, and an Information Disclosure Statement. In support thereof, applicant submitted *inter alia* a copy of their itemized and date-stamped return postcard.

Petitioner's evidence has been reviewed, and is persuasive. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all the items thereon on the date stamped thereon by the USPTO. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of September 26, 2006.

Further, the three-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

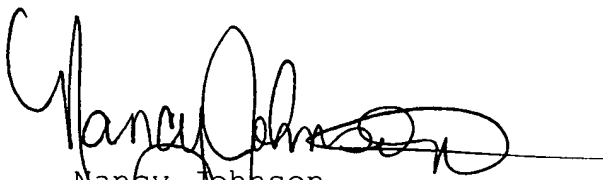
Accordingly, the Notice of Abandonment mailed October 10, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2822 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on September 26, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions